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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,841	02/23/2004	Bruce Allan Crawford	BC-04	1477

7590 03/22/2005
James Addison Barry, Jr.
105 Glenway Point
Lebanon, TN 37087

EXAMINER

MEISLIN, DEBRA S

ART UNIT PAPER NUMBER

3723

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SN

Office Action Summary	Application No.	Applicant(s)	
	10/784,841	CRAWFORD, BRUCE ALLAN	
	Examiner	Art Unit	
	Debra S Meislin	3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/15/04</u> . | 6) <input type="checkbox"/> Other: ____ |

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 4, 6 and 7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Dolan.

It is noted that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 370 F.2d 576, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 312 F.2d 937, 939, 136 USPQ 458, 459 (CCPA 1963). Dolan is capable of performing the intended use of gripping a locknut.

3. Claims 1, 2 and 5 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Nation.

Nation is capable of performing the intended use of gripping a locknut.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over in view of Rodriquez.

Dolan or Nation disclose all of the claimed subject matter except for having offset handles. Rodriquez discloses offset handles. It would have been obvious to one having ordinary skill in the art to form the handles of Dolan or Nation as offset to allow for the flush engagement of the jaws and to provide space between the user's hand and the surrounding structure as taught by Rodriquez.

6. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over in view of Vaughn in view of Schmidt (2004/0074346) and Castner, Sr. et al.

Vaughn discloses all of the claimed subject matter except for engaging a "locknut", orienting the axis of the tool parallel to the axis of rotation of the locknut, and repeating the rotating in small increments. Schmidt discloses engaging a "locknut" and that the wrench may be in the form of a wrench with movable jaws (crescent wrench). It would have been obvious to one having ordinary skill in the art to use the device of Vaughn on a locknut to enable the installation/removal of the locknut as taught by Schmidt.

Castner, Sr. et al discloses that it is old and well known in the art to repeat the rotating of the workpiece in small increments due to crowded confines. Note column 1, lines 15-23. It would have been obvious to one having ordinary skill in the art to use the device of Vaughn by repeating the rotating of the workpiece in small increments when the workpiece is in crowded confines as taught by Castner, Sr. et al.

Castner, Sr. et al discloses orienting the axis of the tool parallel to the axis of rotation of the locknut. Note figure 1. It would have been obvious to one having ordinary skill in the art to orient the axis of the tool of Vaughn as parallel to the axis of rotation of the workpiece to enable secure engagement of the workpiece as inherently taught by Castner, Sr. et al.

7. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 5, "the first unique shape" and "the second unique shape" lack antecedent basis.

8. The use of the trademark "Channel Lock" has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology. See page 2, line 15 of the specification.

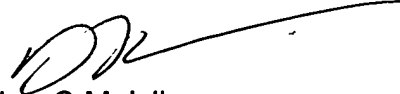
Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Debra S Meislin whose telephone number is 571 272-4487. The examiner can normally be reached on M-F, alt. Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on 571 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3723

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Debra S Meislin
Primary Examiner
Art Unit 3723

March 16, 2005